

OFFICE OF THE FEDERAL DEFENDER

EASTERN DISTRICT OF CALIFORNIA

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Daniel J. Broderick
Federal Defender

Linda C. Harter
Chief Assistant Defender

MEMORANDUM

DATE: July 11, 2006

TO: Colleen Lydon, Courtroom Clerk to
Honorable Edward J. Garcia

FROM: Linda C. Harter, Chief Assistant Federal Defender

SUBJECT: United States v. Ricardo Simental
CR-S-05-0173-EJG

This Memo shall confirm defense counsel's request that Judgment and Sentencing, presently scheduled for August 4, 2006, be continued to **Friday, August 11, 2006 at 10:00 a.m.**

On March 16, 2006, Mr. Simental was found guilty following a short jury trial. He was remanded into custody following the verdict. At the time of his remand, the Court invited Mr. Simental to file a motion for release pending sentencing. On that same day, a schedule for the presentence report and objections was filed by the Court. No motion for release was filed until June 8, one week prior to sentencing. No informal or formal objections were filed on Mr. Simental's behalf. No sentencing memorandum was filed. In the meantime, Mr. Simental had written to the Court complaining about his attorney and contacted the federal defender's office requesting assistance.

On June 16, 2006, Mr. Simental's attorney was permitted to withdraw and the Office of the Federal Defender was appointed. (Mr. Simental was subsequently released on bond and pretrial supervision that afternoon.) Mr. Simental's attorney was ordered to immediately turn over to the entire file to the Office of the Federal Defender. A review of the file indicates that Mr. Simental's former attorney was not present during the interview with probation concerning the presentence report. The file also indicates that there was information that Mr. Simental wanted provided to probation, but, could not do so himself since he was in custody.

Counsel has met with Mr. Simental and reviewed the presentence report. There is additional information that defense counsel would like to provide the probation department and the Court prior to sentencing. It is the defendant's request that a new schedule be set so that this information could be reviewed in an orderly fashion by probation and the opposing party prior to sentencing.

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Counsel has contacted both the probation officer and opposing counsel. Neither have any objection to setting a new schedule.

The following proposed schedule also takes into account the fact that defense counsel has a preplanned vacation from July 20 to August 1.

Counsel's Written Objections Due No Later Than July 21, 2006

Presentence Report Shall be Filed with the Court
and Disclosed to Counsel No Later Than July 28, 2006

Motion for Correction Due No Later Than August 4, 2006

Judgment and Sentencing August 11, 2006

IT IS SO ORDERED.

Dated: July 18, 2006

/s/ Edward J. Garcia
EDWARD J. GARCIA
United States District Court

LCH/cf

cc: Carolyn Delaney, AUSA
Wendy Reyes, USPO
Ricardo Simental